

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

KINERA LOVE,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO.:
)	
DOLLAR GENERAL)	3:06-CV-1147-MHT
CORPORATION,)	
d/b/a DOLGENCORP, INC.)	
)	
Defendant.)	
)	

NOTICE OF TRIAL CONFLICT AND MOTION TO CONTINUE
TRIAL SETTING

COMES NOW Defendant Dolgencorp, Inc., incorrectly named in the complaint as "Dollar General Corporation, d/b/a Dolgencorp, Inc.," ("Dolgencorp" or "Defendant") and hereby notifies this Court that J. Trent Scofield ("Mr. Scofield") trial counsel for Defendant, has a trial conflict involving the date on which this case is presently set for trial and respectfully requests that this Court continue the trial of this matter. In support hereof, Dolgencorp states as follows:

1. This case is currently set for trial on October 14, 2008, in Opelika, Alabama.

2. In addition to being trial counsel for Defendant in this case, Mr. Scofield is also trial counsel for Dolgencorp in the consolidated cases of *Allen v. Dolgencorp, Inc.*, 7:06-CV-02150-LSC, *Dauzat v. Dolgencorp, Inc.*, 7:06-CV-02160-LSC, *Francis v. Dolgencorp, Inc.*, 7:06-CV-02164-LSC, *Franklin v. Dolgencorp, Inc.*, 7:06-CV-02165-LSC, *Hadaway v. Dolgencorp, Inc.*, 7:06-CV-02171-LSC, *Thomas v. Dolgencorp, Inc.*, 7:06-CV-02204-LSC, and

Womack v. Dolgencorp, Inc., 7:06-CV-02213-LSC pending in the United States District Court for the Northern District of Alabama before Judge Scott Coogler (the “Consolidated Case”). These cases currently are set to be tried together beginning on October 13, 2008.

3. The parties to the Consolidated Case were initially parties to an FLSA collective action in the U.S. District Court for the Northern District of Alabama styled as *Brown v. Dolgencorp, Inc.*, 7:02-CV-0673-UWC. The class was decertified Judge Clemon on the fifth day of trial (August 7, 2006), resulting in the filing of individual actions by the former Brown opt-ins. More than two thousand individual plaintiffs were named in one complaint, in a case styled *Gray, et al. v. Dolgencorp, Inc., et al.*, 7:06-CV-01538-LSC.¹

4. In accordance with the Court’s instruction, the seven individual cases mentioned above were selected by both parties to be expedited for disposition in order to allow the parties an opportunity to address common legal issues with respect to the approximately two-thousand individual plaintiffs. Dolgencorp moved for and was granted summary judgment with respect to the seven individual cases, which was vacated by the Eleventh Circuit and remanded for consideration in light of *Rodriguez v. Farm Stores*, 518 F.3d 1259 (11th Cir. 2008). Following remand, in late July 2008, Judge Coogler denied the summary judgment motions and set the October 13, 2008 trial date.

5. As the Consolidated Case was initially filed as a collective action approximately six years ago, and affects the claims of nearly two-thousand individual plaintiffs, Dolgencorp respectfully requests that this Court continue the trial setting in

¹ The Court severed the actions, and they each were assigned their own case number. Further, the Court stated its intent to transfer the cases to their appropriate venues. However, the parties agreed to conduct certain consolidated discovery before Judge Coogler.

this case until this Court's next trial docket.

WHEREFORE, PREMISES CONSIDERED, Dolgencorp respectfully requests that this Court continue the trial of this case, currently set for October 14, 2008, until the Court's next trial docket.

Respectfully submitted,

/s/ Ryan M. Aday
J. Trent Scofield
Christopher W. Deering
Ryan M. Aday

Attorneys for Dolgencorp, Inc.

OF COUNSEL:

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CERTIFICATE OF SERVICE

I do hereby certify that I served a copy of the foregoing pleading upon Plaintiff's counsel via Electronic Filing and U.S. Mail on the 28th day of August, 2008.

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/s/ Ryan M. Aday
OF COUNSEL